

AMS/FAST CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 17-46A

Date Received: April 18, 2017

Title: AMS Guidance Change - Davis Bacon Act/Service Contract Act

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Policy and Guidance: (check all that apply)

- ☐ Policy
- ☒ Procurement Guidance
- ☐ Real Estate Guidance
- ☒ Other Guidance
- ☐ Non-AMS Changes

Summary of Change: AMS Guidance T3.2.6 - Purchase Card Program, and T3.8.7 - Construction Contracting and AMS Thresholds. The dollar thresholds for applicability of the Davis Bacon and Service Contracting Acts are increased to greater than \$10,000.

Reason for Change: The threshold is increased to greater than \$10K to allow more flexibility with the purchase of low dollar items.

Development, Review, and Concurrence: AAP 100, AAQ Division Managers and AGC.

Target Audience: Contracting Personnel

Briefing Planned: No.


ASAG Responsibilities: None.

Section / Text Location: Procurement Guidance T3.2.6 and T3.8.7. Procurement Guidance, Policy, and Forms - AMS Procurement-Related Thresholds and Review Requirements.

The redline version must be a comparison with the current published FAST version.

- ☒ I confirm I used the latest published version to create this change / redline

or

 This is new content

Links:

<http://fast.faa.gov/docs/procurementGuidance/guidanceT3.2.6.pdf>

<http://fast.faa.gov/docs/procurementGuidance/guidanceT3.8.7.pdf>

<http://fast.faa.gov/docs/AMSthresholds.doc>

Attachments: Redline and final documents.

Other Files: N/A

Redline(s):

Section Revised: 3.2.6 A 1 – Purchase Card

Procurement Guidance - (~~1/2017~~ 4/2017)

[T3.2.6 - Purchase Card Program](#) Revised 4/2016

[A Purchase Card Program](#) Added 1/2009

[1 Purchase Card](#) Revised ~~10/2016~~ 4/2017

[2 Convenience Checks](#) Revised 4/2016

[B Clauses](#) Added 1/2009

[C Forms](#) Added 1/2009

T3.2.6 - Purchase Card Program Revised 4/2016

A Purchase Card Program Added 1/2009

1 Purchase Card Revised 10/2016 4/2017

a. *Overview.* The FAA purchase card (i.e. SmartPay Card) is an internationally accepted credit card issued through a General Services Administration (GSA) contract. The purchase card is designed to streamline purchases and reduce procurement time and processing costs. The guidance is in compliance with OMB Circular A-123-Appendix B, GSA SmartPay Program for Purchase Card Use and Management.

(1) FAA employees who receive training and delegated authority are authorized to use the card, within the specified dollar limits, to acquire products and services.

(2) Simplified purchases with a total estimated potential value (TEPV) under the applicable micro-purchase threshold must be performed using the purchase card. The micro-purchase threshold is: \$10,000 for commercial supplies, construction and services.

~~—— (a) \$10,000 for commercial supplies;~~

~~—— (b) \$2,000 for construction; and~~

~~—— (c) \$2,500 for services.~~

(3) The Purchase Card (PCard) Module in the PRISM Acquisition System is the mandatory program for purchase card requisitions, orders and required documentation for all purchase card transactions.

b. *Duties.*

(1) An Approving Official (AO) must be a Government manager and in the same chain of command as his or her cardholders, unless waived by the National Purchase Card Program Manager. The AO is responsible for the following activities:

(a) Approve new purchase cardholder application and spending limits and submit a justification of the need for a new purchase card account to the Agency Program Coordinator (APC).

(b) Review all purchase card transactions prior to the purchase (and after the purchase in US Bank see j below) and ensure accuracy of information and that all required documentation is included for each transaction.

(c) Notify the Agency Program Coordinator (APC) when a cardholder retires, leaves FAA, transfers to another office, or no longer requires a purchase card.

(d) Establish procedures to ensure that cardholder purchase card files are retained when a cardholder retires, transfers to another office, or leaves FAA.

(e) Submit written requests to the APC to change the cardholder's single and/or monthly purchase limit.

(f) Review all purchase card transactions and ensure accuracy of information

(g) Ensure that all transactions are for a bona fide need of the Government.

(h) Report fraudulent or improper use of the purchase card to the National Purchase Card Program Manager and APC.

(i) Review and final approve cardholder's transactions in US Bank Access Online within 45 days of the close of the billing cycle. All transactions must be final approved (including fraud and disputed transactions) to ensure funds are expended from the correct appropriation code.

(j) Ensure that the mandatory PRISM PCard Module is used for all Purchase Card Transactions.

(k) Safeguard the bank's user IDs and passwords. The AO must not share user IDs and passwords.

(l) Ensure that items purchased through the purchase card are the same as those approved. The cardholder is to provide to the AO a justification for any differences.

(m) Verify cardholder has submitted property information to the Property Custodian for input in the AITS system before final approving a transaction in US Bank Access

(n) Establish and continually monitor internal controls to ensure that the prior approval of purchases and funds certification are obtained by cardholders and key duties of the program are properly segregated

(2) *Cardholder*: A Government employee who uses the purchase card to make purchases and is responsible for the following activities:

(a) Safeguard the purchase card and account number. Only the individual whose name appears on the card is authorized to make purchases on that purchase card. Allowing someone other than the cardholder to use the card, or sharing passwords to obtain products and services, is considered an unauthorized purchase that is subject to disciplinary action as outlined in the Human Resources Operating Instructions (HROI) Table of Penalties, ER-4.1, Section 27a .

- (b) Obtain prior approval from the approving official and funds certifier before making a purchase.
- (c) Ensure the accounting classification code (correct object class codes) for each item to be procured has been certified by a funds certifier before the purchase is made. Each cardholder has a primary use or "default" accounting classification code based on organization and the primary use of the card.
- (d) Include a justification and description for each purchase so that it can be easily understood by someone that is reviewing the purchase.
- (e) Provide copies of source documents (i.e., invoice, purchase order, etc.) relating to purchases of accountable personal property to appropriate personnel.
- (f) Abide by, and never exceed their single and monthly purchase limits. Purchases must not be "split" to circumvent single purchase limits.
- (g) Review and validate all charges against their sales slips, review any credits on the statement, and dispute charges for purchases not received.
- (h) Review and approve transactions in US Bank Access Online within 45 days of the close of the billing cycle. All transactions must be final approved (including fraud and disputed transactions) to ensure funds are expended from the correct appropriation code.
- (i) Notify the APC as part of the exit clearance process when retiring or leaving FAA, and properly destroy issued cards and convenience checks.
- (j) Ensure that the mandatory PRISM PCard Module is used for all Purchase Card Transactions. This is also the official repository for all required transaction documentation which will be maintained for 6 years and 3 months.
- (k) Provide justification to the AO for any discrepancies with the transaction to include amount charged, product defects, shipping issues, return issues, credits, etc. Maintain a copy of the justification with the transaction documentation.
- (l) Review and validate charges against sales receipts and invoices; review credits online and dispute transactions as applicable (e.g. amount charged, incomplete orders, etc.).
- (m) Splitting transactions/orders to stay within single or monthly limits or other applicable thresholds (including competition, services, construction or check writing limits) is prohibited.
- (n) Upon separating from the agency or the purchase card program, cardholders must:

- (i) Ensure clearance forms are signed by APC;
- (ii) Review purchase card files for accuracy;
- (iii) Ensure all transactions posted to US Bank have the designation "Final Approved;"
- (iv) Forward all purchase card files to the AO; and
- (v) Destroy the purchase card and checks.

(o) Review and reconcile transactions in US Bank.

(p) Immediately report lost and/or stolen purchase card or checks to US Bank and the APC.

(q) Verify items have been received by documenting the transaction file with receipt date and recipient.

(r) Adhere to Accountable Property policy in section 3 below.

(3) Agency Program Coordinator APC's are responsible for implementing the day to day bank activities of the card program. APC's are responsible for the following:

(a) Establishing and terminating accounts

(b) Issuing cards and/or convenience checks

(c) Liaison between the National Purchase Card Manager, the Bank and the Cardholder for account activities

(d) Monitoring and control of lost/stolen accounts

(e) Process changes to accounts

(f) Closeout out accounts due to inactivity, retirement, transfer and resignation from FAA

c. Single and Monthly Purchase Limit. Single Purchase Limits are delegated based on the operational need of FAA, the training completed by the cardholder and the experience of the

cardholder purchasing items for the Federal Government. The completion of training does not automatically secure an increased authority to use the purchase card.

- (1) Cardholders will receive an initial delegation detailing general authority and responsibilities, but applicable single and monthly purchase limits will be identified and available in US Bank Access.
- (2) The Purchase Card Office may grant higher limits, either permanently or temporarily, if presented with a written justification establishing an unusual or compelling need.
- (3) Prior to being delegated permanent single purchase limits exceeding \$10,000, cardholders must complete additional training requirements (detailed below) commensurate with the additional authority.

d. Initial Training and Experience.

(1) Cardholder and Approving Officials

(a) Must complete the following and provide copies of training certificates to the APC before a purchase card will be issued:

- (i) Maintain It: Your FAA Purchase Card (FAA30060016 eLMS course);
- (ii) GSA SmartPay 2 Purchase Card Training- online; and
- (iii) US Bank Access Online Web-Based Training online.

(b) In addition to the training requirements above, cardholders must complete the following before a purchase card will be issued with a permanent single purchase limit over \$10,000: Approving Officials that approve cardholders delegated a single purchase limit over \$10,000 will also have to take the additional training below.

- (i) The FAA Purchase Card: Get It, Use It, Keep It (FAA30060015)
- (ii) CON 100- Shaping Smart Business Arrangements;
- (iii) CON 237- Simplified Acquisition Procedures or AQN SPB Simplified Acquisition Procedures Basic; and
- (iv) CLC 004- Market Research.

(c) *Experience.* To be considered for a single purchase limit over \$10,000, the cardholder must submit evidence of at least 1 year purchasing experience (using a purchase card, contract or other procurement tool) in the Federal Government.

e. Refresher Training.

(1) Purchase Card Refresher training must be completed by each AO and cardholder every 2 years using the eLMS course Maintain It: Your FAA Purchase Card (FAA30060016).

(2) The National Purchase Card Program Manager is responsible for monitoring the proper completion of required refresher training.

(3) AOs and cardholders failing to meet refresher training requirements will have their authority suspended until required training is completed.

f. *Separation of Duties.* Key duties and responsibilities in purchasing, certifying availability of funds, and approving transactions should be separated among individuals. The following conditions apply in the processing of a purchase card transaction:

(1) The AO is the last person to approve the individual purchase after the cardholder obtains certification of funds;

(2) The AO must approve the justification of each individual transaction for need and accuracy;

(3) An individual must never perform all duties;

(4) An AO and fund certifier must not perform both approval and fund certification for the same purchase; and

(5) The cardholder must never be the AO and/or fund certifier.

g. *Mandatory Sources and Other Requirements*

(1) When using the purchase card, cardholders must consider the following requirements:

(a) *Strategic Sourcing Initiatives.* (See AMS Procurement Guidance T3.8.6).

(b) *Federal Prison Industries, Inc. (FPI) (also known as UNICOR).* (See AMS T3.8.4)

(c) *Randolph-Sheppard Act.* (See AMS Procurement Guidance T3.8.4)

(d) *Javits-Wagner-O'Day Act (JWOD).* (See AMS Procurement Guidance T3.8.4)

(e) *Section 508 Requirements.* (See AMS Procurement Guidance T3.2.2)

(f) *Environmental Requirements.* (See AMS Procurement Guidance T3.6.3 for additional information)

(2) If mandatory sources are applicable and not used, the transaction file must document how mandatory sources were sought and the reasons why a non-mandatory source was chosen.

h. *Split Purchase.* A split purchase is a procurement made to avoid established purchase limits, to include single purchase limits and competition thresholds.

(1) Split purchases may also include procurement intended to avoid limits governing the use of the purchase card for construction (\$~~2~~10,000) or services (\$~~2,500~~10,000). It is not necessary for the purchase to be in the same day or made by the same cardholder to qualify as a split purchase. One-time increases can be authorized by the Purchase Card Office.

i. *Use of the Purchase Card as a Payment Vehicle.*

(1) The purchase card may be used as a payment tool against an existing signed contract, lease, or order. This allows users to utilize the purchase card's streamlined payment characteristics when its use alone may be otherwise restricted.

(2) When the purchase card is being used as a payment vehicle against a contract, lease or order, all terms and conditions must be established in writing and be signed by both a Contracting Officer (CO) and the vendor. The contract, lease or order must specifically authorize the use of the purchase card as a payment tool. If the contract, lease or order does not authorize in writing the purchase card as a payment tool, the purchase card cannot be used.

(3) Payments must not exceed the cardholder's Single Purchase Limit.

(4) Each payment made using the purchase card against an existing signed contract, lease, or order must include:

(a) Information regarding the source contract, lease, or order, to include the contract/lease/order number, CO, award date, period of performance or delivery date, and proof of funds availability;

(b) A copy of the terms and conditions in the contract, lease, or order authorizing the use of the card;

(c) A copy of the invoice or request for payment;

(d) Proof of delivery;

(e) Evidence that the CO authorizes payment; and

(f) Prior approval by the Approving Official (AO) authorizing the use of the card.

j. *Services Procured Using a Purchase Card.*

(1) The purchase card may be used to procure services under the following guidelines:

(a) The services are exempted from the Service Contract Act (SCA), as detailed under AMS Procurement Guidance T3.6.2, and do not exceed the cardholder's Single Purchase Limit. Services exceeding ~~\$2,500~~10,000 in which SCA is applicable in accordance with AMS Procurement Guidance T3.6.2 must not be purchased using the purchase card.

(b) The services are incidental to a supply purchase and the total purchase price is below the micro-purchase threshold for supplies. Supply purchases with incidental services above the micro-purchase threshold must be approved by the Purchase Card Office.

(c) *Recurring Services.*

(i) The service requirement does not exceed one (1) year, and the total value for the year does not exceed the cardholder's Single Purchase Limit.

(ii) For any recurring service, the total dollar value of the service must be established at the time of the initial order, despite payment being made monthly

(iii) If the SCA applies to the service requirement, the total value of the service must not exceed ~~\$2,500~~10,000 for the year.

(iv) The certification of funds availability must be sufficient to cover the entire term of the service, but cannot exceed one year.

(2) Purchase cards must not be used to enter into agreements containing terms and conditions that include termination costs or option periods, or which may incur any contingent liabilities (liabilities that are based on whether or not a future event occurs).

(3) Purchase cards must not be used to procure personal services. Personal service procurements create an employer-employee relationship between FAA and the contractor's personnel (see AMS Procurement Guidance T3.8.2).

(4) The purchase card must not be used to enter into equipment or other types of leases, unless the procurement is through a FAA contract and/or strategic sourcing initiative (e.g. SAVES [Strategic Sourcing for the Acquisition of Various Equipment and Supplies]).

(5) Maintenance agreements are not considered leases, and may be procured using the purchase card.

(6) The purchase card may be used as a payment vehicle against existing service contracts or agreements signed by a CO.

k. *Construction Procured Using a Purchase Card.*

(1) "Construction" means construction, alteration, or repair of buildings, structures, or other real property. For purposes of this definition, the terms "buildings, structures, or other real property" include but are not limited to improvements of all types, such as maintenance facilities, duct banks, air traffic control facilities, communication towers, radar facilities, office facilities, airport facilities, and navigational aids.

(2) The purchase card may be used to procure construction totaling ~~\$2~~10,000 or less, as long as it does not exceed the cardholder's Single Purchase Limit.

(3) The value of a construction project includes all related work, and may involve multiple purchases (i.e. multiple purchases towards the completion of a single construction project are included in the total value of the work).

(4) Any construction project procured using the purchase card must have simple terms and not require modifications and specifications that could result in the requirement exceeding ~~\$2~~10,000.

(5) The purchase card may be used as a payment vehicle against an existing construction contract signed by a CO.

l. *Competition.*

(1) *\$10,000 or less.* Competition is not required for purchases of \$10,000 or less.

(2) *In excess of \$10,000.* For approved actions that value in excess of \$10,000, applicable AMS requirements for competition or single source procurement apply. See AMS Procurement Guidance T3.2.2.4.

m. *Rational Basis.* Purchasers should have a rational basis for purchasing decisions. As the value of a purchase increases, the documentation supporting the purchase should increase as well. If the purchase involves an item that is a viable exemption to an applicable prohibition or restriction (See AMS Procurement Guidance T3.2.2.5.A:4, Considerations for Restricted Purchases), then the purchaser must, despite the dollar value of the purchase, document the basis and background for the purchase. The cardholder should also document the background for actions that would appear questionable to a reasonable and prudent person with market knowledge of the products or services being purchased.

n. *US Bank Access Comments Fields.* Cardholders must enter required data into US Bank Access comments fields.

(1) *Comments Field 1:* PCPS Number, Financial Tracking/Cuff Record System Number (e.g. REGIS Number), Accountable property information (e.g. AITS Number), other explanatory information (e.g. fraudulent transaction, emergency purchase, disputed item information, etc.).

(2) *Comments Field 2*: Description of the item or service.

(3) *Comments Field 3 (Recovery Act)*: Description of purchases made using funds received from the American Recovery and Reinvestment Act.

(4) *Comments Fields 4 (Identifier for Item Below) and 5 (Item of National Interest)*: Description of purchases made during declared emergencies (e.g. supplies purchased during hurricanes or other disasters).

o. *Documentation.*

(1) Documentation supporting purchase card transactions must be uploaded into the PRISM PCard Module and will be retained for 6 years, 3 months from the transaction date.

(2) All cardholder PRISM transaction files should include but not limited to:

(a) Certification of prior approval. The cardholder will obtain confirmation of any verbal approval within 10 days of receiving the verbal approval.

(b) Certification of funds availability. Funds certification officers must provide a documented certification of funds availability prior to any purchase. This can be done on a quarterly, semi-annual or annual basis.

(c) A sales slip, invoice, or order confirmation.

(d) Rational basis.

(e) Receipt of goods or services, signed and dated by recipient.

(f) Dispute Notes

(g) Any special approvals on restricted transactions i.e. water, SAVES waivers, etc.

(h) Documentation to the purchase that explains more details if needed to include notes, emails, tax information, or backup notes to the purchase card file for problematic or cumbersome transactions that may have additional questions

(i) *Independent Receipt of Goods.*

(i) Where the cardholder is also the receiver, another FAA employee (except for the AO) must confirm receipt of the goods or services by signing and dating the sales slip or invoice.

(ii) Except for items considered sensitive or pilferable, confirmation of receipt of goods or services is not required where the unit price is less than \$5,000 or the item is being incorporated into a project for a fixed asset (e.g., buildings and other structures).

(iii) Items that are considered sensitive or pilferable include, but are not limited to:

Weapons	Computer hard drives
Firearm periphery equipment such as scopes	External disc drives
Ammunition	Personal Data Assistants (PDA)
Cell phones	Secure fax machines
Pagers	Recording equipment
Encrypted phones	Cameras, non-disposable
Two-way radios.	Test equipment
Laptop computers	Laboratory and medical Equipment

(j) Check for exceptions to prohibited purchases (see AMS Procurement Guidance T3.2.2.5.A.2 and this section).

(k) Additional supporting documentation needed for special transactions such as training, convenience checks, etc.

(3) *Accountable Property.*

(a) *Process.* Cardholder purchase card transaction source documentation must be routed as follows:

(i) Cardholder must provide a suspense copy of the purchase card order (documented proof of prior approval) for accountable personal property to the Property Delegate (Property Custodian) in the gaining organization after placing the order.

(ii) After receiving the property, the cardholder should obtain from the person receiving the items documentation (invoices, sales slips, packing slips and/or receiving reports) for the purchase and forward property information to the Property Delegate for entry into official agency inventory system and to clear the suspense copy of the purchase card order.

(iii) Cardholders should document their file with property information supporting the purchase (e.g. Invoice number, model or serial number of

property, dates information was given to property delegate/custodian and any other property identifying information for recording into AITS).

(iv) More information relating to Property Custodian/Delegates roles are located on the FAA Intranet (FAA only) under the title FAA Personal Property Process and Procedure Guide, V2, June 1, 2009.

p. *Prohibited Purchases.*

- (1) Long-term rental or lease of land or buildings. Exception: The purchase card may be used to purchase short-term commercial conference and meeting-room space. (See AMS Procurement Guidance 3.2.2.5A:3 for additional information)
- (2) Cash advances, including money orders;
- (3) Telephone services provided through GSA or the local Office of Information Services or Service Center Communications Office. However, telephone equipment may be purchased using the card;
- (4) Real property, which is defined as land, buildings, structures or rights over or under the land such as improvements to make it more productive or to make it serve a more beneficial end than the land itself;
- (5) Long term storage unit rental or services (long term is defined as 6 months or more), unless the purchase card is being used solely as a payment vehicle against a contract or lease signed by the CO/RECO and;
 - (a) The total cost of the rental or purchase of the storage services does not exceed the cardholder's delegated authority;
 - (b) The portable units are not classified as real property (defined above); and;
 - (c) The terms and conditions of the rental or storage services (e.g., termination authority) are in writing and signed by both parties.
- (6) Use of the purchase card for personal purchases or as identification when writing personal checks is prohibited.
- (7) Use of the purchase card for travel charge card or travel-related expenses is prohibited. Exception: Metro fare cards and toll passes (e.g. EZ Pass) may be purchased for local travel supporting official FAA business. Proper controls must be established to ensure that fare cards or passes are not lost or stolen, and use is recorded and monitored to prevent the cards from being used for commuting to and from work. For other services related to local travel, each must be approved by the Purchase Card Office.

(8) Use of the purchase card to obtain commercial, Government owned or leased vehicles is prohibited.

(9) Fuel and maintenance of government owned or leased vehicles is prohibited.

(10) Store gift cards or gift certificates must not be purchased with the Government Purchase card.

q. *Restricted Purchases.* Restrictions for all simplified purchases can be found in AMS Procurement Guidance T3.2.2.5A:4.

r. *Purchase Card Use for Non-Monetary Awards.* Refer to AMS Procurement Guidance T3.2.2.5A:2 for additional information.

s. *Third Party On-line Payments.* Cardholders are required to immediately provide the Approving Official written notification (i.e. e-mail or memorandum) when they become aware that a purchase card purchase will be processed by a third party on-line payment company. Also cardholders must provide the approving official a copy of all documentation that supports the on- line payment transaction within five days of item receipt.

t. *Acquisition of Training Services.* The FAA purchase card is encouraged for use to the maximum extent possible to acquire training. If not designated a training coordinator, it is important for the cardholder to ensure that proper coordination of training requirements has taken place prior to training being purchased, e.g. completed training checklist, needs assessment, etc.

u. *Tax Exemption.* At the time of the purchase, cardholders should advise the merchant that the purchase is for official U.S. Government purposes and therefore is not subject to state or local tax. If the vendor wants to clarify this, the back of the card includes an 888 number that may be called for verification. Exceptions do exist for certain state taxes in certain states (i.e., New Mexico or Arizona). For this reason, cardholders should contact legal counsel regarding applicability of any exemptions or other issues related to state or local taxes.

(1) A review should be made of the bank statement for inclusion of sales tax.

(a) If sales tax was included, first check for the state exception. Tax exempt information and guidelines for each state can be found at <https://smartpay.gsa.gov/content/state-tax-information>.

(b) If sales tax is charged in error, request a credit from the vendor.

(2) All newly issued purchase cards should be checked to ensure that the Operating Administration's name and the tax ID are embossed on the card.

(3) The government is tax exempt, but there are instances where the vendor may charge tax. Tax cannot be disputed in US Bank. If improper tax is charged to a transaction the cardholder must:

(a) Immediately contact vendor and inform the vendor that the government is tax exempt and request a credit;

(b) Document files with the proposed agreement to credit the tax, or if vendor states he or she will not credit tax document the file with a memo to file (for phone conversations) or any e-mail/correspondence received; and

(c) If a credit is forthcoming, watch for the credit during the reconciliation process and contact the vendor if you don't see the credit within 15 days.

v. Deficiencies/Disputes/Damaged Equipment

(1) If the cardholder finds a discrepancy that is the result of item shortage, receipt of a defective or damaged item, or receipt of the wrong item, the first step is to contact the vendor to seek resolution. The cardholder should request a replacement item or a credit from the vendor. If the vendor agrees to credit a cardholder's account, the credit will appear on the cardholder's electronic account statement the following month. On the statement, the cardholder will need to final approve both actions, also. If the item is rejected by the Government, the cardholder should return the defective, damaged or erroneous item to the vendor within 60 days of receipt.

(a) If a refund is issued in the form of store credit, it must be made out to the Federal Aviation Administration and used for a future valid purchase.

(b) In the event a refund check is received, it must be forwarded to the servicing accounting office for deposit within one business day. The original accounting classification code should be provided to credit the funds accurately.

(2) A dispute occurs when a cardholder formally challenges the validity of a transaction with the bank. If the cardholder and vendor cannot reach an agreement on resolution of the discrepancy, then the cardholder must formally dispute the purchase on line with the bank. The bank will credit the purchase cardholder's account until the dispute is resolved.

(a) Reasons for Disputing a Purchase:

(i) Inadequate description or unrecognized charge

(ii) Duplicate charge

(iii) Account charged for merchandise returned

(iv) Account charged for an order that was cancelled (unless cancellations charges were agreed to up-front)

(v) Account charged for merchandise or service that was not received

(vi) Account charged for merchandise that does not reflect that ordered

(vii) Account charged for merchandise that is damaged

(viii) Account charged erroneously

(ix) Incorrect amount charged

(x) Did not authorize the charge posted

(b) The bank will not process disputes for:

(i) Foreign exchange rates for international purchases

(ii) Shipping and handling charges

(iii) Taxes

(iv) Convenience checks and associated fees

w. Lost or Stolen Purchase Cards and Convenience Checks, and/or Compromised Accounts.

(1) *Reporting Lost or Stolen Purchase Cards and convenience checks, and/or Compromised Accounts.* The cardholder must report immediately the loss or theft of their purchase card and/or convenience checks to the APC, the approving official and the card-issuing bank in order to avoid liability for unauthorized purchases on the card. The cardholder must also report immediately to those indicated above a compromised account (i.e. identity theft) or suspicion of a compromised account. The necessary information to report to the card-issuing bank includes the cardholder's complete name, card number, check numbers, and purchases made on the date of loss or theft. In the event of theft, the cardholder should also provide the bank the date that the theft was reported to the police.

(2) *Card Re-issuance.* The card-issuing bank will issue a new card to the cardholder within two working days from the time that the loss or theft is reported. A cardholder who reports more than one incident of loss or theft within a 12-month period will require authorization from the National Purchase Card Manager in order to have another card re-issued.

x. *Accounting Classification Code Adjustments.* Each cardholder has a primary use or "default" accounting classification code based on the primary use of the card, i.e., whatever the office is primarily purchasing. For example, Flight Standards offices may have a primary use of the card for aircraft rental. The card may be used for purchases other than the "primary use" purpose; however,

the action will require a different accounting classification code assignment. The cardholder is required to assign the correct object class code for each item purchased. The approving official is required to review the statement for accuracy, for potential for split purchases, and to approve each individual transaction.

y. Destroying Purchase Cards and Convenience Checks.

(1) When an account has been closed, all related purchase cards and unused checks should be recorded and properly destroyed.

(2) Once the financial institution has been notified to cancel an account, checks attempting to post after the closure date will be declined. The financial institution security associates and bank representatives will investigate each check to determine if floating checks were written by the account holder and valid for payment. If the check is valid, the checks will post to the new account number, if not, the checks will be returned for non-payment and further investigated by the financial institution.

z. Non-Compliance. The purchase card is considered Government property. The FAA will comply with the FAPM Letter 2635 Code of Conduct & Discipline Order, HRP 4.1 on Standards of Conduct, and HROI Table of Penalties for any purchase cardholder, approving official, supervisor, and manager misuse and/or fraud of Government property.

aa. Suspension. The purchase card privileges of any cardholder found to be non-compliant with purchase card guidance twice in a six-month period will be suspended for six months. The cardholder's privileges may be restored upon completion of remedial training or permanently revoked. Notifications regarding non-compliance will be sent to the manager one level above the AO.

bb. Organizational Standard Operating Procedures. Organizations may establish internal standard operating procedures (SOP) for their cardholders addressing the processing of purchase card transactions (e.g. the ATO Purchasing SOP). However, SOPs must not diminish or change the intent of AMS Policy or Guidance.

2 Convenience Checks Revised 4/2016

a. Convenience checks are carbon checks pre-printed with the cardholder's name, work address and a notation that the check is not valid for more than \$2500. As convenience checks are an extension of the applicable purchase card account, all purchase card policy and guidance applies to check usage.

b. *Convenience Check Usage.* A convenience check may be issued only when the service or goods for which payment is being made is operationally critical, cost effective and consistent with FAA procurement policies. In addition, convenience checks are to be issued only in "exceptional situations" when the use of payment mechanisms such as an automated clearinghouse, or a Government purchase card are not accepted.

(1) Convenience checks may only be used:

- (a) Where the political, financial, or communications infrastructure does not support payment by Electronic Funds Transfer (EFT) in a foreign country;
- (b) Where the payment is to a recipient within an area designated by the President or an authorized agency administrator as a disaster area;
- (c) Where paying by EFT would jeopardize military or law enforcement operations or national security interests;
- (d) Where a cost-benefit analysis shows that making non-recurring payments by EFT are not justified;
- (e) Where an agency's need for goods and services is of such unusual and compelling urgency that the Government would be seriously injured unless payment is made by a method other than EFT; or
- (f) When there is only one source for goods or services and the Government would be seriously injured unless payment is made by a method other than EFT.

(2) Convenience checks may not be used for:

- (a) The issuance of travel advances when the Government-issued travel charge card is revoked or cancelled due to delinquent payment or for personal reasons;
- (b) Cash; or
- (c) Travel or travel-related expenses.

c. Authorization Level

- (1) Purchases using convenience checks must be approved in advance by the second-level manager. The convenience check-approving official must initial the check register to verify that the payee does not accept the purchase card.
- (2) If the approving official is not located at the same site as the person authorized to issue the check (check writer), verbal approval, followed by written documentation, is satisfactory. A copy of the written documentation authorizing the purchase must be provided to the check writer. If the second-level manager is not readily available, another individual at that level or higher may approve the use of the check, provided that he/she can attest that the need clearly follows the guidelines stated above.
- (3) If the check writer is providing the check to another employee who will actually be submitting the check to the vendor/merchant/individual for payment, and the latter employee is in a different line of business than the check writer, then the approving official will be the

second-level supervisor of the employee paying the vendor/merchant/individual rather than the second level supervisor of the check writer.

d. *Issuing a Convenience Check.*

(1) The following information must be entered in the appropriate space on the check and must be written, printed in ink or typed:

(a) *Date*: Enter the date on which the convenience check was issued to vendor for purchase. The date can be spelled out (e.g., August 27, 2008) or written (8/27/08). Do not predate or postdate a convenience check.

(b) *Pay to the Order of*: Enter the name of the payee. (Individuals may not issue convenience checks payable to themselves.)

(c) *Amount*. The dollar amount of the convenience check must be written and spelled out in the space provided, (e.g., "\$126.39" and spelled out as "one hundred and twenty-six and 39/100," followed by a horizontal line out to the end of the space provided).

(d) *Memo*. (Additional Information). Enter information pertinent to the purchase, e.g., radar parts, pavement repair, emergency plumbing.

(e) *Authorized Signature*. Sign in the space provided. Your signature should be in the same format as the name printed on the convenience check, (e.g., if first, middle, and last names are spelled out in full rather than initials being used, your signed name must also be spelled out in full).

(2) Except as otherwise authorized, checks must **only** be used for officially approved purchases and issued **only** by the individual whose name appears on the check. Documentation of the "exceptional situation" required to issue a check must be maintained with the purchase card check file.

e. *Spending Limitation.*

(1) Convenience checks access the same single purchase and monthly purchase limits established for the purchase card account. The established monthly limit will cover purchases made by both the purchase card and the convenience checks. Approving officials will determine the appropriate dollar amount of single purchases limits to be established for each cardholder; however, each convenience check issued cannot exceed \$2,500.

(2) Under no circumstances must a check be written over \$2,500.

f. *Knowing Your Balance*. Cleared convenience checks are deducted from the monthly purchase limit when they actually clear the bank, not when they are written. Monthly purchase limits are renewed on the 20th of each month. You are responsible for tracking your individual available balance and

reconciling cleared convenience checks. Remember any transactions made with your purchase card will also be counted toward your monthly balance. The following is important.

- (1) Allow time for each convenience check to clear, which may overlap billing cycles;
- (2) Ensure the monthly purchase limit is sufficient to cover written checks; and
- (3) At the beginning of each billing cycle, convenience checks that appear on the statement as cleared should be deducted from your balance.

IMPORTANT NOTE: This account is different from your personal checking account because unused balances do not accumulate. Exceeding your purchase limit will result in convenience checks being returned for insufficient funds.

g. *Safeguarding and Accountability of Blank Convenience Checks.* Convenience checks must be safeguarded. When not in use, checks are to be kept in a secured area, i.e., locked safe or cabinet or another secured environment approved by the servicing security element to protect them from being stolen or misused.

h. *Insufficient Check Fees.* The financial institution does not charge a fee for insufficient checks; however, the vendor may charge a fee. This fee may vary depending upon the vendor and/or amount of the check.

i. *Maintaining Your Convenience Check Register.* A convenience check register should be maintained to record each convenience check transaction. The convenience check number, date issued, the payee, a description of the purchase, the emergency convenience check amount, and the account fee can be entered.

j. *Maintaining Receipts and Record Retention.* The carbon copy of the check, the merchandise receipt and invoice must be maintained for each purchase and matched against the convenience check register. Records should be retained in the office and then archived according to the agency's Vital Record and Retention Manual. Records include the monthly statement of account, convenience check register, receipts, and all other supporting documentation.

k. *Account Fees.* The fees associated with writing a convenience check will be charged back to the individual check writer's LOB and will appear on the monthly statement.

l. *Billing Statement.* The monthly purchase card and convenience check statement will show the merchant/vendor name, the amount of the check, and the check number of all cleared checks.

m. *Reconciling Your Account.* The monthly statement must be cross-checked with the convenience check register, carbon copy of the check, receipt, invoice, and internal log to ensure that the register and statement amounts are the same. Any discrepancies must be resolved immediately with the financial institution. Keep in mind that cleared checks that may appear on the statement may be checks written the prior month.

B Clauses **Added 1/2009**

[view contract clauses](#)

C Forms **Added 1/2009**

[view procurement forms](#)

Sections Revised:

3.8.7 A 2 – Dismantling, Demolition and Removal of Improvements

3.8.7 A 4 – Laws, Regulations and Standards

3.8.7 A 9 – Post-Award

Procurement Guidance - (~~1/2017~~ 4/2017)

[T3.8.7 Construction Contracting](#) Revised 8/2009

[A Construction Contracting](#) Added 7/2007

[1 General](#) Added 7/2007

[2 Dismantling, Demolition and Removal of Improvements](#) ~~Added 7/2007~~ Revised 4/2017

[3 Salvageable Property](#) Added 7/2007

[4 Laws, Regulations and Standards](#) ~~Added 7/2007~~ Revised 4/2017

[5 Design-Build](#) Revised 1/2016

[6 Reserved](#) Revised 10/2014

[7 Planning and Pre-Solicitation](#) Revised 7/2016

[8 Pre-Award](#) Revised 1/2016

[9 Post-Award](#) Revised ~~1/2016~~ 4/2017

[10 Contract Acceptance Inspection \(CAI\)](#) Revised 4/2012

[11 Contract Completion/Closeout](#) Revised 8/2009

[B Clauses](#) Added 7/2007

[C Forms](#) Added 7/2007

T3.8.7 Construction Contracting Revised 8/2009

A Construction Contracting Added 7/2007

1 General Added 7/2007

- a. Guidance in this section applies to construction contracts, contracts for dismantling, demolition, or removal of improvements, and to the construction portion of contracts for products or services. In the event that the portions of multipurpose contracts are so commingled that priced deliverables for construction, service, or supply cannot be segregated, AMS guidance applicable to the predominant purpose of the contract applies.
- b. "Construction" means construction, alteration, or repair of buildings, structures, or other real property. For purposes of this definition, the terms "buildings, structures, or other real property" include but are not limited to improvements of all types, such as maintenance facilities, duct banks, air traffic control facilities, communication towers, radar facilities, office facilities, airport facilities, and navigational aids.
- c. When performing construction, alteration, or repair work in FAA-leased space, the Contracting Officer (CO) must consult with his or her local Real Estate Contracting Officer (RECO) to determine FAA's alteration rights and responsibilities.

2 Dismantling, Demolition and Removal of Improvements ~~Added 7/2007~~ Revised 4/2017

- a. If a contract is solely for dismantling, demolition, or removal of improvements and will exceed ~~\$2,500~~10,000, the Service Contract Act applies unless further work is contemplated that will result in the construction, alteration or repair of a public building or public work at that location is contemplated. If further construction work is intended, even though by separate contract, then the Davis-Bacon Act applies to the contract for dismantling, demolition, or removal.

3 Salvageable Property Added 7/2007

- a. The procurement team (CO, program official, legal counsel, and other support staff) should consider the usefulness to FAA of all salvageable property. Any of the property having a salvage value that is less than its usefulness to FAA should be expressly designated in the contract for retention by FAA. The contract may provide that:
- (1) The FAA pays the contractor for the reasonable costs of the dismantling or demolition of the structure(s);
 - (2) The contractor pays FAA for the right to salvage and remove the materials resulting from the dismantling or demolition operation; or

(3) A combination of both. Both the FAA and contractor must ensure compliance with environmental laws and regulations, including handling of hazardous waste.

b. The procurement team should determine the fair market value of any property not to be retained by FAA, because the contractor may receive title to this property. Its value will therefore be important in determining what payment, if any, should be made to the contractor, and whether additional compensation will be made if the contract is terminated. Personal Property Managers, in conjunction with the procurement team, must approve the disposition of Government property to be transferred to contractors under dismantling, demolition or removal of improvements contracts.

4 Laws, Regulations and Standards ~~Added 7/2007~~ Revised 4/2017

a. *Davis-Bacon Act.* The Davis-Bacon Act applies to construction contracts ~~valued at \$2~~greater than \$10,000~~or more.~~

b. *State Regulation of Federal Construction Projects.*

(1) FAA contractors may encounter requests from State and local governments for the FAA's contractors to obtain building permits, zoning approval, sanitation approval, etc. Based on the "Supremacy" clause of Article 6 of the United States Constitution, construction contractors are not required to obtain most permits or approvals for work done on Federal construction projects. The States do have enforcement authority for safety and environmental protection as specified by the Occupational Safety and Health Administration (OSHA), the Comprehensive Environmental Response, compensation and Liability (Superfund) Act (CERCLA), and the Resource Conservation and Recovery Act (RCRA).

(2) Contractors who encounter attempts by State or local government entities to assess various types of fees against a FAA construction project should be advised to inform the CO immediately if the assessing entity attempts in any way to prevent or hinder the contractor at the job site. The CO should seek legal advice from either Regional Counsel or AGC-500.

c. *Local Employment in Construction Contracts.* Occasionally, efforts are made by State or local governments to have FAA limit employment on construction projects to local residents or firms. Such a restriction has been held to be improper, and should not be used in FAA contracts (reference Washington State Supreme Court case Laborers Local Union No. 374 v. Felton Construction Co., Nov. 24, 1982, and 42 Comp. Gen. 1, B-198952, 81-1 CPD 467). FAA recognizes that Tribal Employment Rights Ordinances (TERO) which affects projects on or near certain Indian reservations may have an effect on contractor labor. FAA should inform offerors of the existence of a TERO in the screening information request (SIR).

d. *Domestic Materials.* The Buy American Act applies to construction, alteration, and repair contracts performed in the United States. It requires contractors to use domestic materials, except under specific circumstances. Also, the Buy American provisions of the Aviation Safety and Capacity Expansion Act of 1990 require FAA to use domestic steel and manufactured products, unless an exception applies. (See AMS Procurement Guidance T3.6.4)

5 Design-Build Revised 1/2016

a. *General.* Design-build is a contracting technique that allows a single procurement for both design and construction of a project. Design-build allows the contractor flexibility, to the extent allowable or reasonable, for innovation in design, materials, and construction methods utilized in a construction project.

b. *Considerations for Using Design-Build.*

(1) When planning a design-build, the procurement team (Contracting Officer (CO), program official, legal counsel and others supporting a project) should consider the following factors:

- (a) Extent to which requirements are defined;
- (b) Time constraints;
- (c) The potential for delays, modifications, and scope changes;
- (d) Potential regulatory or environmental issues;
- (e) Construction issues, including differing site conditions and schedules;
- (f) Risks to FAA, including potential liabilities and meeting stipulated performance standards;
- (g) Availability and type of funding, including funding issues that may arise from a large design-build project that covers multiple fiscal years; and
- (h) Availability of qualified design-build contractors.

(2) When considering design-build, the procurement team must judge who is in the best position, FAA or a contractor, to manage and control potential issues or risks for a particular project. Under a design-build, the contractor assumes the greater responsibility and risk. Claims for design errors or delays are not allowed and the potential for other types of claims are greatly reduced.

c. *Design-Build Source Selection.*

(1) *Two-Phase SIR.* While a CO may choose to award a contract based on one SIR requiring a single offer (that includes an offeror's technical and pricing information), the CO may instead issue a two-phase SIR that allows the CO to screen technical proposals and down-select offerors prior to requesting a price proposal.

(a) Phase one involves the request for and evaluation of technical proposals from offerors, and no pricing is involved. The goal is to determine the acceptability of the technical proposals prior to the submission of pricing. Technical information that may be requested from offerors includes, but is not limited to:

- (i) Technical capabilities;
- (ii) Experience/past performance (such as experience in a given field or industry or on-airport experience);
- (iii) Engineering approach;
- (iv) Special manufacturing processes; and
- (v) Joint experience of design and construction management teams.

(b) Phase two involves the submission of pricing proposals by only those offerors determined to be technically acceptable in step one. Trade-offs in phase 2 are allowable.

(c) Factors the CO should consider for using a two-phase SIR include:

- (i) Specifications or descriptions are not definite or complete;
- (ii) Definite criteria exist for the evaluation of technical proposals, experience, or past performance;
- (iii) Two or more sources are expected; and
- (iv) FAA personnel (i.e. CO, engineers, etc.) are available to evaluate/manage a two-phase SIR.

(2) *Cost-Reimbursement Contract*. When a design-build project involves numerous uncertainties or the project has yet to be fully developed, a cost-reimbursement, rather than a fixed-price, contract may be appropriate. Rare situations that may warrant a cost-reimbursement design-build contract are:

- (a) Highly technical or next generation projects that do not have an effective design benchmark; and
- (b) Projects with multiple uncertainties, for example:
 - (i) Site conditions or locations that create unique and unplanned impacts to the project;

(ii) New technology that may create integration issues when introduced to current systems; and

(iii) Hazardous waste remediation where the scope of the clean-up cannot be completely defined.

(3) *Design Competition.* Design-build may include “design competition” as a basis for selecting a vendor for the project. FAA provides general design requirements or constraints and offerors prepare a preliminary design or specification for FAA evaluation. Depending on the scope of the project and availability of funding, FAA may authorize a fixed payment to compensate offerors for work done during the design competition.

6 Reserved Revised 10/2014

7 Planning and Pre-Solicitation Revised 7/2016

a. *Type of Contract and Pricing.* Generally, construction should be acquired on a firm-fixed price basis. Pricing may be on a lump sum basis (when a lump sum is paid for the total work or defined parts of the work), on a unit price basis (when a unit price is paid for a specified quantity of work units), or using a combination of the two.

b. *Options.* If in FAA’s best interest, COs may include options in construction contracts. Solicitations must state whether options will or will not be evaluated for purposes of award. Appropriate use of options in construction contracts includes:

(1) Additional work is anticipated but sufficient funds are not anticipated or available prior to the time of award, and it would not be in FAA’s best interest to award a separate contract or have another contractor work on the site; and

(2) If fixed building equipment is installed under the contract and it would be in FAA’s best interest to have the installer maintain and service the equipment during the warranty period.

c. *Property.* Before issuing the solicitation, the CO must document if materials for the project will be Government Furnished Property (GFP) or furnished by the contractor. The requiring organization prepares the GFP list, and the list must be included in the solicitation to ensure that any proposals received account for the source of project material.

d. *Insurance.* If in the best interest of FAA, the CO may require the contractor to carry insurance, especially if the work is to be done on an FAA facility or FAA property is involved. The CO must ensure the contractor submits all required insurance documents and the documents are acceptable before issuing the notice to proceed (NTP). An original copy of the proof of insurance must be retained in the contract file.

e. *Bonds.* Per the Miller Act (40 U.S.C.A Section 3131), performance and payment bonds are required for all construction contracts that exceed \$150,000. The amount of the bonds should reflect the minimum amount required to protect FAA interests. An original copy of any bond must be retained in the contract file. The CO will not issue the NTP until required bonds have been received.

f. *Source Evaluation Plan.* The CO's method of selection and evaluation criteria must be documented in the contract file. This may be done by establishing an evaluation plan as described under Complex and Noncommercial Source Selection (See AMS 3.2.2.3).

g. *Basis for Award.* Award may be based on the lowest price, technically acceptable offer when best value is expected to result from a technically acceptable proposal with the lowest price.

- (1) All evaluation factors (non-cost) that will be used to determine if an offeror is technically acceptable will be set forth in the solicitation.
- (2) The solicitation must specify that award will be made to the lowest priced offer meeting or exceeding the acceptability standards for non-cost factors.
- (3) Tradeoffs are not permitted.
- (4) Non-cost factors are used to evaluate acceptability and not to rank proposals.
- (5) Discussions regarding proposals may occur.

h. *Differing Site Conditions.* The purpose of the "Differing Site Conditions" clause is to encourage offerors to limit inclusion of contingency costs in their offers for conditions that are not reasonably foreseeable. The clause will also assist FAA and the contractor in complying with the Archaeological Resources Protection Act of 1979 (36 CFR 1214).

i. *Construction Moratoriums.* When in the planning stages of a construction project, the procurement team must consider any impacts construction moratoriums may have upon the project and its related schedule.

j. *Disclosure of the Size of Construction Projects.* When the estimated price of the proposed construction project is \$150,000 or more, public announcement (if required) and SIRs should state the size of the requirements in terms of a physical description of the project and the estimated price. The estimated price may be described in a price range as determined by the procurement team or in terms of one of the following price ranges:

- (1) Between \$50,000 and \$100,000;
- (2) Between \$100,000 and \$250,000;
- (3) Between \$250,000 and \$500,000;

- (4) Between \$500,000 and \$1,000,000;
- (5) Between \$1,000,000 and \$5,000,000;
- (6) Between \$5,000,000 and \$10,000,000; or
- (7) More than \$10,000,000

k. *Environment and Conservation.*

- (1) If a CO becomes aware of contractor noncompliance with environmental standards (to include clean air and water standards), the CO is to notify FAA officials and the Environmental Protection Agency (EPA).
- (2) The CO has a responsibility to help coordinate and ensure that any hazardous materials present or introduced during the performance of a contract are appropriately managed and tracked.
- (3) Products used for a project must adhere to agency goals established in FAA's Green Procurement Plan (GPP), and each contract must include GPP compliance provisions to ensure the contractor understands applicable FAA energy conservation and recovered material, or recycled content product, standards.
- (4) Refer to AMS Procurement Guidance T3.6.3 for additional guidance on the protection of the environment and proper conservation during construction contracts, and AMS Real Estate Guidance 2.4.16.3 for information regarding the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings.

l. *Subcontracting Plan.* When a project is expected to exceed \$1 million is not an 8(a), SDVOSB, or small business set-aside, and subcontracting opportunities exist, the CO should include provisions for a small business subcontracting plan in the solicitation.

m. *Patent and Data Rights.* The CO should ensure appropriate patent and data rights clauses are included in the solicitation when the project is for other than standard types of construction and may involve unique products, materials, or processes.

n. *Value Engineering.* Value engineering provisions in the solicitation may be appropriate to allow the contractor to initiate changes in design, specifications, or other requirements and share in any savings that may result.

8 Pre-Award Revised 1/2016

a. *Public Announcement.* All procurements, including construction, over \$150,000 must be publicly announced on the Internet or through other means. For example, the announcement could be placed on the FAA Contracting Opportunities website.

b. *Inspection of Site and Examination of Data.*

(1) The procurement team should make appropriate arrangements for prospective offerors to inspect the work site prior to submission of offers. The procurement team should also allow prospective offerors the opportunity to examine data in the possession of FAA that may provide information concerning the performance of the work, such as boring samples, original boring logs, geology reports, and record and plans of previous construction. The SIR should notify offerors of the time(s) and place(s) for the site inspection and data examination, as well as the name and telephone number of the contact point at the facility. The procurement team should keep a record of the identity and affiliation of all offeror representatives who inspect the site or examine FAA site information.

(2) Significant site information should be made available to all offerors, including information regarding any utilities to be furnished during construction. FAA personnel must not provide information that conflicts with the provisions of the SIR.

(3) The CO must notify all potential offerors of any clarification or correction to the SIR package.

c. *Past Performance.* Past performance can aid in selecting the contractor who is most likely to perform satisfactorily. Key to the successful use of past performance in the screening process is establishing a clear relationship between the statement of work (SOW), the instructions to offerors, and the evaluation criteria. Past performance information that is not important to the current acquisition should not be included.

d. *Pre-Award Survey.* COs may use pre-award surveys to aid in gathering past performance information. The pre-award survey can give the CO a sense of how the contractor will perform, especially if concentrating on projects that are similar in type and scope to the one being solicited. The scope of the pre-award survey is at the discretion of the CO as it may be affected by the size and complexity of the solicitation and project.

9 Post-Award Revised 1/2016 4/2017

a. *Assignment of Inspection and Contract Administration.*

(1) Due to the locations and complexity of most construction projects, COs often accomplish their administrative and inspection functions through utilization of Contracting Officer's Representatives (COR). These personnel are normally present at the job site each day, and are in the best position to observe day-to-day activities and performance. CORs on site perform such delegated duties as daily performance

inspections, Department of Labor wage rate interviews with contractor personnel, provide minor clarifications of specifications and drawings, and insure contractor compliance with all safety and labor requirements on site. The duties of these individuals must be clearly annotated by the CO in a delegation letter. A copy of the delegation letter is provided to the COR and the contractor. See AMS Procurement Toolbox templates and samples for sample COR delegation letter.

(2) Only the CO, or person delegated specific authority to execute contract modifications, may authorize a change to the original contract.

b. *Notice to Proceed (NTP)*. The NTP is issued to give notice to the contractor when on-site work can be started, when the project is to be completed based upon the performance time in the contract, and any other information deemed pertinent by the CO. Prior to its issuance, the CO must ensure all required submittals have been delivered to and approved by the FAA, that all required insurance and bonding documents have been submitted and are acceptable, and other coordination or applicable documentation has been completed.

c. *Preconstruction Conference*. The CO may conduct a preconstruction conference (to discuss matters such as applicable labor standards, the authority of various personnel, safety, and environmental considerations) prior to the start of a construction or demolition contract. Preconstruction conferences are not a requirement for each project. When deciding on a conference, the CO should weigh the administrative costs, time, and possible travel expenses for all parties involved, against the complexity of the requirement, the impact of the requirement on entities involved with the site, and the past performance and technical knowledge of the contractor. For a preconstruction conference agenda and checklist, see AMS Procurement Forms.

d. *Use and Possession Prior to Completion*. Beneficial occupancy occurs when the Government takes possession of, or puts to use, a completed or partially completed part of the work. It does not constitute acceptance of the facility as constructed. The clause "Use and Possession Prior to Completion" addresses some of the issues associated with beneficial occupancy. If it is foreseen prior to contract inception that beneficial occupancy will become an issue, or if it becomes an issue during contract performance, the CO should consider negotiating contract terms which cover relevant issues for that contract, e.g., date of warranty, builder's risk coverage, coordination with the contractor, etc. Legal counsel should be consulted on the legal ramifications of beneficial occupancy. Phased (partial) acceptance can be used as an alternative to beneficial occupancy, if the need can be identified sufficiently in advance to structure the contract accordingly, and it is determined in the best interests of the parties.

e. *Airport Coordination*. Local airport authorities and/or other Federal agencies may have requirements and regulations outside of those imposed by the FAA that a contractor is required to adhere to when completing a construction project on an airport. These additional requirements may include additional security, insurance, and safety requirements. It is the responsibility of the contractor to coordinate with other authorities or agencies prior to performance to ensure they satisfy any applicable local regulations.

f. *Property Protection.* The FAA must ensure that the contractor understands that throughout the performance of the contract, care must be taken by the contractor to protect FAA and/or other property that may be affected during construction.

g. *Prime Contractor Performance.* The use of subcontractors by a prime contractor during the performance of a construction contract is inevitable and at times presents a savings to the FAA through the contract. For example, the prime contractor may lack the internal capability to provide specific trades required to meet all the terms and conditions of the contract. The CO should assure adequate interest in and supervision of work involved in projects. The contractor shall be required to perform a significant part of the contract with its own work force and express this requirement in terms of a percentage of the total work, for example:

(1) The prime contractor must perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees on site.

(2) Construction by special trade contractors: The prime contractor must perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees on site.

h. *Contractor's Daily Log.* For any construction contract ~~of \$2 greater than \$10,000 or more~~, the contractor is required to submit to the CO a "Daily Log" of activity on the site. The logs must include the workers used by classification, construction equipment moved on and off the site, materials and equipment delivered to the site, inspections and tests performed, and total cumulative hours worked.

i. *Suspension of Work.* The COR should notify the CO when a suspension order is necessary to prevent the contractor from proceeding with work that will have to be removed or changed. Only the CO can order a suspension of work; when possible, the CO should use partial, rather than, total suspension orders.

j. *Warranties.* The CO should obtain information about any warranties from the contractor. This information should include effective dates and names, addresses, and contacts. A list of warranty or guarantee expiration dates is made and retained, and copies are provided to the user.

k. *Asbestos NESHAP Compliance.* The contractor must comply with all federal, state, and local requirements regarding building demolition and/or the removal of any asbestos in accordance with the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP). AMS clause 3.6.3-24 "Asbestos NESHAP Compliance" applies in such situations.

10 Contract Acceptance Inspection (CAI) Revised 4/2012

a. Definitions:

(1) *Contract Acceptance Inspection (CAI):* Formal inspection by the Project Implementer of a constructed facility when work under the contract is considered to be substantially

complete. The CAI is typically requested by the prime contractor and coordinated with the Project Implementer.

(2) *Joint Acceptance Inspection (JAI)*: The JAI is an activity to gain consensus of all involved groups that projects for facility, system, or equipment establishment, improvement, or relocation are completed in accordance with national criteria and that the facility is capable of performing its advertised functions.

(3) *Project Implementer (PI)*: The PI is the FAA organization implementing the project, although funding may be provided by other organizations. In most cases this will be ATO Technical Operations (ATO-W) Engineering Services.

b. *Contract Acceptance Inspection (CAI)*. The Project Implementer, usually a Contracting Officer's Representative (COR) appointed in ATO-W Engineering Services and delegated by the Contracting Officer (CO), is responsible for formally inspecting a constructed facility from the construction or equipment installation contractor and recommending acceptance or non- acceptance to the CO. This inspection is typically conducted before the beginning of JAI.

c. The CO's responsibility is to formally accept the constructed facility. The CO must notify the contractor when a CAI has been completed and work under a contract has been either accepted or rejected. This should be done through the CAI letter (see Procurement Forms) that describes:

(1) What is being accepted from the contractor (item and description);

(2) The acceptance date of the item; and

(3) Any outstanding commitments the contractor has for the item (e.g. punch list items, warranties, etc.).

d. All CAI letters and associated information should be filed in the official contract file. This documentation is used to support completion of the contract, and to provide data to properly capitalized items.

11 Contract Completion/Closeout Revised 8/2009

a. A construction or installation project must be considered physically and financially complete and funds deobligated, when necessary, within one year after the final acceptance and inspection (e.g., CAI) has been completed.

b. Prior to final payment, the CO must ensure:

(1) Receipt of all required warranty documentation;

(2) Return of issued ID media (Badges, etc.);

- (3) Receipt of any state tax exemption certificates or completion statements as required from the contractor;
- (4) Certification that all government property has either been utilized in the performance of the contract or returned to the FAA;
- (5) Confirmation from the requiring organization that the job has been completed as contracted;
- (6) Receipt of any other applicable items required from the contractor that are unique to the procurement; and
- (7) Receipt of a final release of claims on file signed by the contractor for the final amount of the contract.

B Clauses Added 7/2007

[view contract clauses](#)

C Forms Added 7/2007

[view procurement forms](#)